CHAPTER XXVI.

OF THE JUDGMENT.

Mode of delivering judgment.

366. (*1*) The judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced, or the substance of such judgment shall be explained.

(*a*) in open Court either immediately after the termination or the trial or at some subsequent time of which notice shall be given to the parties or their pleaders, and

(*b*) in the language of the Court, or in some other language which the accused or his pleader understands:

Provided that the whole judgment shall be read out by the presiding Judge, if he is requested so to do either by the prosecution or the defence.

(*2*) The accused shall, if in custody, be brought up, or, if not in custody be required by the Court to attend, to hear judgment delivered, except where his personal attendance during the trial has been dispensed with and the sentence is one of fine only or he is acquitted, in either of which cases it may be delivered in the presence of his pleader.

(*3*) No judgment delivered by any Criminal Court shall be deemed to be invalid by reason only of the absence of any party or his pleader on the day or from the place notified for the delivery thereof, or of any omission to serve, or defect in serving on the parties or their pleaders, or any of them, the notice of such day and place.

(*4*) Nothing in this section shall be construed to limit in any way the extent of the provisions of section 537.

Language of judgment. Contents of judgment.

367. (*1*) Every such judgment shall, except as otherwise expressly provided by this Code, be written by the presiding officer of the Court [1][or from the dictation of such presiding officer] in the language of the Court, or in English; and shall contain the point or points for determination, the decision thereon and the reason for the decision; and shall be dated and signed by the presiding officer in open Court at the time of pronouncing it [1][and where it is not written by the presiding officer with his own hand, every page of such judgment shall be signed by him].

(*2*) It shall specify the offence (if any) of which, and the section of the Indian Penal Code or other law under which, the accused is convicted, and the punishment to which he is sentenced. XLV of 1860.

Judgment in alternative.

(*3*) When the conviction is under the Indian Penal Code and it is doubtful under which of two sections, or under which of two parts of the same section, of that Code the offence falls, the Court shall distinctly express the same, and pass judgment in the alternative. XLV of 1860.

(*4*) If it be a judgment of acquittal, it shall state the offence of which the accused is acquitted and direct that he be set at liberty.

[2][(*5*) In trials by jury, the Court need not write a judgment, but the Court of Session shall record the heads of the charge to the jury:

Provided that it shall not be necessary to record such heads of the charge in cases where the charge has been delivered in English and taken down in shorthand.]

[3][(*6*) For the purposes of this section, an order under section 118 or section 123, sub-section (*3*), shall be deemed to be a judgment.]

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[1] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 100.

[2] Substituted by Act 26 of 1955, s. 66, for the original sub-section.

[3] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 100.

Sentence of death.

368. (*1*) When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

(*2*) [1]*

Court not to alter Judgment.

369. [2][Save as otherwise provided by this Code or by any other law for the time being in force or, [3][in the case of a High Court [4]* * * by the Letters Patent or other instrument constituting such High Court], no Court], when it has signed its judgment, shall alter or review the same, except [5]* * * * to correct a clerical error.

Presidency Magistrate's judgment.

370. Instead of recording a judgment in manner hereinbefore provided, a Presidency Magistrate shall record the following particulars :—

(*a*) the serial number of the case ;

(*b*) the date of the commission of the offence ;

(*c*) the name of the complainant (if any) ;

(*d*) the name of the accused person, and [6]* * * his parentage and residence ;

(*e*) the offence complained of or proved :

(*f*) the plea of the accused and his examination (if any) ;

(*g*) the final order ;

(*h*) the date of such order ; and

(*i*) in all cases in which the Magistrate inflicts imprisonment, or fine exceeding two hundred rupees, or both, a brief statement of the reasons for the conviction.

Copy of judgment, etc., to be given to accused on application.

371. (*1*) On the application of the accused a copy of the judgment, or, when he so desires, a translation in his own language, if practicable, or in the language of the Court, shall be given to him without delay. Such copy shall, in any case other than a summons-case, be given free of cost.

(*2*) In trials by jury in a Court of Session, a copy of the heads of the charge to the jury [7][or, where a transcript of the charge forms part of the record under section 297, a copy of such transcript] shall on the application of the accused, be given to him without delay and free of cost.

Case of person sentenced to death.

[8](*3*) When the accused is sentenced to death by any court and an appeal lies from such judgment as of right, the court shall inform him of the period within which, if he wishes to appeal, his appeal should be preferred.]

[9][(*4*) When the accused is sentenced to imprisonment then, without prejudice to the provisions of sub-section (*1*) or sub-section (*2*), a copy of the finding and sentence shall, as soon as may be after the delivery of the judgment, be given to the accused free of cost.]

Judgment when to be translated.

372. The original judgment shall be filed with the record of proceedings, and where the original is recorded in a different language from that of the Court, and the accused so requires, a translation thereof into the language of the Court shall be added to such record.

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[1] Sub-section (*2*) was omitted by Act 26 of 1955, s. 67.

[2] Substituted by s. 101, of the Code of Criminal Procedure (Amendment), 1923 (18 of 1923), for "No Court other than a High Court".

[3] Substituted by the A. O. 1950 for "in the case of a High Court established by Royal Charter, by the Letters Patent of such High Court".

[4] The words and letter "for a Part A State" were omitted by Act 1 of 1951, s. 17.

[5] The words and figures "as provided in sections 395 and 484 or" rep. by Act 18 of 1923, s. 101.

[6] The bracket and words "(except in the case of a European British subject)" were omitted by Act 17 of 1949, s. 3 (*5*).

[7] Inserted by Act 26 of 1955, s. 68 (*a*).

[8] Substituted by Act 1 of 1951, s. 18, for the original sub-section (*3*).

[9] Inserted by Act 26 of 1955, s. 68 (*b*).

Court of Session to send copy of finding and sentence to District Magistrate.

373. In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence (if any) to the District Magistrate within the local limits of whose jurisdiction the trial was held.

[1][*Copy of finding and sentence to be sent to District Magistrate or Commissioner of Police.*]

373. In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence (if any) to the District Magistrate within the local limits of whose jurisdiction the trial was held :

[2][*Provided that the Court of Session for Greater Bombay shall send such copy to the Commissioner of Police for Greater Bombay.*]

CHAPTER XXVII.

OF THE SUBMISSION OF SENTENCES FOR CONFIRMATION.

Sentence of death to be submitted by Court of Session.

374. When the Court of Session passes sentence of death, the proceedings shall be submitted to the High Court and the sentence shall not be executed unless it is confirmed by the High Court.

Power to direct further inquiry to be made or additional evidence to be taken.

375. (*1*) If when such proceedings are submitted the High Court thinks that a further inquiry should be made into, or additional evidence taken upon, any point bearing upon the guilt or innocence of the convicted person, it may make such inquiry or take such evidence itself, or direct it to be made or taken by the Court of Session.

(*2*) Such inquiry shall not be made nor shall such evidence be taken in the presence of jurors [3]** and, unless the High Court otherwise directs, the presence of the convicted person may be dispensed with when the same is made or taken.

(*3*) When the inquiry and the evidence (if any) are not made and taken by the High Court, the result of such inquiry and the evidence shall be certified to such Court.

Power of High Court to confirm sentence or annul conviction.

376. In any case submitted under section 374, [4]* * * the High Court—

(*a*) may confirm the sentence, or pass any other sentence warranted by law, or

(*b*) may annul the conviction, and convict the accused of any offence of which the Sessions Court might have convicted him, or order a new trial on the same or an amended charge, or

(*c*) may acquit the accused person :

Provided that no order of confirmation shall be made under this section until the period allowed for prefering an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.

Confirmation of new sentence to be signed by two Judges.

377. In every case so submitted, the confirmation of the sentence, or any new sentence or order passed by the High Court, shall, when such Court consists of two or more judges, be made, passed and signed by at least two of them.

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[1] Substituted by Bom. 32 of 1948, s. 20, for the original marginal note.
[2] Added by s. 20, *ibid.*
[3] The words "or assessors" were omitted by Act 26 of 1955, s. 69.
[4] The words "whether tried with the aid of assessors or by jury" were omitted, *ibid.*, s. 70.